

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

APPLICATION OF MAURICIO MOTA  
FOR AN ORDER TO TAKE DISCOVERY  
FOR USE IN FOREIGN PROCEEDINGS  
PURSUANT TO 28 U.S.C. § 1782

19 Misc. 573 (KPF)

ORDER GRANTING  
APPLICATION FOR  
DISCOVERY ASSISTANCE  
UNDER 28 U.S.C. § 1782

KATHERINE POLK FAILLA, District Judge:

THIS MATTER came before the Court pursuant to an Application for Discovery Assistance with Respect to Foreign Legal Proceedings (the “Application”), by Mauricio Mota (“Petitioner”), under 28 U.S.C. § 1782. The Court has reviewed the Application (Dkt. #1), Petitioner’s supporting memorandum (Dkt. #3) and the Declaration of William J. Hine and the exhibits thereto (Dkt. #4). It has also considered 28 U.S.C. § 1782, the statutory and discretionary factors associated therewith, and the relevant case law. *See, e.g., Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004); *Certain Funds, Accounts &/or Inv. Vehicles v. KPMG, L.L.P.*, 798 F.3d 113, 114-15 (2d Cir. 2015); *Mees v. Buiter*, 793 F.3d 291, 302 (2d Cir. 2015). The statutory requirements of 28 U.S.C. § 1782 are satisfied in that: (i) the discovery is sought from entities that are “found” or reside in New York, New York, *i.e.*, (a) J.P. Morgan Chase & Co.; (b) Fabio Pegas; (c) Patricia Pratini De Moraes; and (d) Blessed Holdings Inc. (collectively, the “Respondents”); (ii) the discovery sought is for use in pending court proceeding in Brazil, *i.e.*, *Mauricio Jorge Pereira de Mota v. Joesley Mendonca Batista, et al.*, No. 5089754-29.2019.4.02.5101 (8th Federal Court of the Judiciary Section of the State of

Rio de Janeiro) (the “Foreign Proceeding”); and (iii) Petitioner is an “interested person,” as he is a party in the Foreign Proceeding. Moreover, the discretionary factors articulated in *Intel*, 542 U.S. at 264-66, weigh in favor of granting the Application: (i) the Respondents are not parties in the Foreign Proceeding in Brazil and may be beyond the jurisdiction of the foreign tribunal; (ii) the foreign tribunal will be receptive to the evidence obtained through 28 U.S.C. § 1782; (iii) Petitioner is seeking discovery from the Respondents in good faith for use in the Foreign Proceeding; and (iv) the discovery requested is not unduly intrusive or burdensome; rather, through the proposed subpoenas, Petitioner seeks discovery relevant to and for use in the Foreign Proceeding through limited and narrowly-tailored document requests directed to (and potentially depositions of) each Respondent.

After concluding that these factors support the granting of Petitioner’s request, the Court hereby ORDERS and ADJUDGES as follows:

1. Petitioner’s Application for an order to take discovery from: (i) J.P. Morgan Chase & Co., (ii) Fabio Pegas, (iii) Patricia Pratini De Moraes, and (iv) Blessed Holdings Inc. (collectively, the “Respondents”), for use in foreign proceedings pursuant to 28 U.S.C. § 1782 is GRANTED;
2. Petitioner is authorized, pursuant to 28 U.S.C. § 1782, to take discovery from the Respondents relating to the issues identified in the Application, including:

- a. issuing subpoenas for the production of documents in substantially the form attached to the Application as Exhibits 2-5; and
  - b. issuing subpoenas for the taking of depositions of the Respondents as Petitioner reasonably may deem appropriate and as are consistent with the Federal Rules of Civil Procedure; and
3. This Order is without prejudice to the Respondents' rights to assert objections in relation to the subpoenas.

SO ORDERED.

Dated: January 3, 2020  
New York, New York



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KATHERINE POLK FAILLA  
United States District Judge